



MONTANA DEPARTMENT OF REVENUE

MONTANA WITHHOLDING TAX GUIDE

2014 WAGE WITHHOLDING

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Terms You Should Know

Employee – an individual who performs a service for a person or organization. One of the tests applied to determine whether an individual is an employee is: Does the individual or organization for which the service is performed have the legal right to control the way in which the service is carried out? It is only the right to control that is important; it is not necessary that the control is ever actually exercised.

Employer – a person or organization that pays wages to an individual in exchange for the performance of a service by the individual. Individuals, corporations, partnerships, estates, trusts, associations, joint ventures, religious organizations, government agencies, and political subdivisions are among the entities which may be employers. This is not an exclusive list.

Form W-2 – a wage and earnings statement. This is a federal form, but may include state information.

Form W-4 – a withholding allowance form completed by employees. This is a federal form.

Employers should withhold for Montana based on the value on line 5 only. Exempt is not permitted.

Remittance Schedule – the filing and payment frequency for withholding. The schedule can be annual, monthly, accelerated, or not required.

Wage – a general term that encompasses, but is not limited to, salaries, wages, bonuses, fees, commissions, vacation allowances, retroactive pay increases, and any other payments made by an employer for services provided by his/her employee, unless exempted. The term wages also includes the cash value of any asset which is given to an employee as compensation for his/her service to the employer.

Wage Withholding – money deducted and taken from an employee's wages by an employer for payment of the employee's income taxes.

State Income Tax Withholding

Employers' withholding responsibilities: Individuals who earn wages by performing services in Montana are liable for Montana income tax. As an employer, it is your duty by law, to deduct the tax from the wages you pay. If you reside in Montana or are a nonresident employer who pays wages for services performed in Montana, you are required to withhold Montana income tax. This money belongs to your employees and is only held in trust by you, until paid to the state. You should not use withholding monies to operate your business.

Exempt wages:

There are certain kinds of services and compensation that are excluded by law from withholding. Please refer to the Employment Tax Chart on pages 8-10 of this guide, for a list of exemptions. If your employees qualify under the following exemptions, you will need to withhold from their wages as explained below.

Spouse of U.S. Armed Forces Service member

On November 11, 2009 the Military Spouses Residency Relief act was signed into law. The Act exempts from state income tax wages paid to the spouse of a U.S. armed forces service member if the spouse is a nonresident of the state in which the wages are earned and is present in the state solely to be with the service member who is stationed in the state. The Act was effective starting with the 2009 tax year. In order to be exempt from withholding, the spouse of the service member must give a complete Form MSR Employee Certificate of Status under the Military Spouses Residency Relief Act (MSRRA) to the employer on or before February 28th of each year.

North Dakota Residents Reciprocity – Montana and North Dakota have a reciprocal agreement which calls for a resident of one of the states to pay income tax to the state of residency, even though the compensation upon which the tax is based is earned in the non-residency state. You are not required to withhold Montana income tax from compensation paid to employees who have established themselves as North Dakota residents. Employees who wish to take advantage of

this agreement, will need to obtain Form MT-R (Reciprocity Exemption from Withholding) at <http://revenue.mt.gov> calling us toll free at (866) 859-2254 (in Helena, 444-6900), or by writing to us at Montana Department of Revenue, P.O. Box 5835, Helena, Montana 59604-5835. They must complete the form and file it with you, and you will then need to send a copy to us at this same address. We may notify you to disregard an employee's false or unsubstantiated MT-R and require you to resume withholding.

Interstate Transportation – If you are a motor or rail carrier, your employees are subject to the jurisdiction of the Interstate Commerce Commission, and to income tax withholding only in their state of residency. Montana resident transportation workers pay income tax to Montana on all their earnings.

Native Americans – Compensation you pay to enrolled members of an Indian tribe who live and work within the boundaries of their enrolled tribe's reservation is not subject to Montana income tax withholding, provided that such enrolled members' income is derived from reservation sources. You are required to have statements from exempt employees on file, stating that they reside on their reservations, along with their certificates of enrollment. Compensation you pay to enrolled members of an Indian tribe who do not live and work within the boundaries of their enrolled tribe's reservation are subject to Montana income tax withholding. Compensation you pay to enrolled members of an Indian tribe who live and work within the boundaries of their enrolled tribe's reservation is subject to Montana income tax withholding if it is not derived from reservation sources.

Withhold from pensions, annuities, deferred compensation and IRAs:

Your employees' contributions to qualifying annuity contracts as defined by the Internal Revenue Code (IRC), such as "tax sheltered" annuity plans for teachers, deferred compensation for public employees, or other similar plans, are exempt from withholding requirements to the extent that the contributions are not included in their adjusted gross income for federal income tax purposes. Contributions made to individual retirement accounts under Sec. 3401(a)(12), IRC while considered compensation to the employee, are not subject to Montana withholding if you reasonably expect that your employee will be able to deduct such amounts as retirement savings account contributions. Withholding on distributions from pensions, annuities and other deferred-type compensation is voluntary. If your employees request that you withhold on such plans, you are required to do so.

Withholding requirements for nonresidents and nonresident aliens:

Compensation you pay to a nonresident or nonresident alien is subject to Montana income tax withholding in all cases unless the compensation is specifically exempted under Montana law. (See earlier section on exempt wages.) If you employ nonresidents short-term or indefinitely, their compensation is subject to withholding. Compensation which may be excluded from federal withholding or federal adjusted gross income under a U.S. tax treaty is subject to Montana income tax withholding. The determination of whether or not a nonresident alien qualifies for tax treaty exclusion is not made until the Montana individual income tax return is filed by the nonresident alien at year end.

Factors in determining how much to withhold:

The amount of tax you withhold from an employee's pay depends upon three factors: (1) the length of your payroll period, (2) the gross pay, and (3) the number of withholding allowances claimed on the withholding allowance certificate (Form W-4). Wage withholding tax tables can be found at: <http://revenue.mt.gov/home/businesses.aspx> under "Wage Withholding".

Determining withholding allowances: The number of allowances claimed is set by your employees for both federal and state purposes when they complete the federal Form W-4. Montana does not provide a separate Form W-4. Your employees can use a separate Form W-4 for state purposes. If so, the following rules apply:

- The Form W-4 is used to determine the number of allowances. Your employees may elect to have a

different number of allowances for federal and state purposes.

- Exemption from withholding for federal purposes does not exempt your employees from Montana income tax withholding. Montana does not recognize an “exempt” status on a Form W-4.
- If line 5 on Form W-4 is left blank or has anything other than a number entered on it, your employee is deemed to be claiming “zero” allowances and withholding tax should be calculated and deducted accordingly.
- Any change to Form W-4 for Federal Child Tax Credit purposes does not change the Form W-4 for state purposes.
- You are required to provide a copy of any Form W-4 to the Montana Department of Revenue, on which an employee has claimed 10 or more withholding allowances. If we determine that such a certificate is unacceptable, we may notify you to disregard the allowances your employee has claimed. We will then advise you of the maximum number of withholding allowances the employee can claim. If the same employee then submits another Form W-4 showing allowances greater than those set by the department, you are required to again disregard it.

Withholding from supplemental wages:

If you pay supplemental wages such as commissions, bonuses or overtime pay with your employees’ regular wages, the amount of tax withheld should be based on the total of the regular and supplemental wages. If you pay supplemental wages separately (for example, a “Christmas Bonus”), the tax withheld may, at your option, be based on:

- the total of the supplemental wage and the regular wage for the current payroll period, or
- the total of the supplemental wage and the regular wage for the last preceding payroll period which falls within the same calendar year, or
- a flat 6% of the supplemental wage.

Montana wage withholding remittance schedules:

The remittance schedule is the frequency that your withholding payments are due to the state based on the lookback period. Your schedule may be accelerated (more frequently than monthly), monthly annual, or not required.

Wage withholding lookback period:

The lookback period is the 12 month period from July 1 of the preceding year to June 30 of the current year. The lookback period is used to determine your reporting and payment schedule for the next calendar year. Based upon the lookback period, we will send you the appropriate number of payment vouchers. If you are a new employer or do not have a complete lookback period, you will need to follow the monthly remittance schedule until we are able to determine your appropriate remittance schedule. However, you may request additional vouchers and pay more frequently than monthly. If your filing frequency has changed, we will notify you before November 1 each year, what your remittance schedule will be for the next calendar year. This schedule is based on your withholding payments during your lookback period— July 1 to June 30. The following chart is an overview of the requirements. To determine your schedule for the coming calendar year, add the amount of state income tax withheld and paid during the period July 1 through June 30 of the current year. Please refer to the schedule that applies to your business. Example: To determine your schedule, add the amount paid July 1 through June 30 of the previous year and refer to the chart. If the amount of state income tax you withheld is \$12,000 or more, the accelerated schedule applies; if the amount withheld is \$1,200 – \$11,999, the monthly schedule applies; if the amount withheld is less than \$1,200, the annual schedule applies, unless you are a new employer or don’t have a complete lookback period. A “Not Required” schedule will only apply when you are notified by the Montana Department of Revenue.

Withholding remittance schedule

Schedule Thresholds	Pay Date and Form
Accelerated \$12,000 or more	Pay per federal schedule. Payment voucher (Form MW-1)
Monthly \$1,200-11,999	15th of month following (Form MW-1)
Annual \$1,199 or less	Feb 28 (Form MW-1 & Form MW-3)
Not Required	Feb 28 (Form MW-3)

You have the option to submit payments on a more frequent basis than required by your schedule. If you are required to remit on an annual basis, we will send you additional payment vouchers in case you decide to pay on a more frequent basis.

We are required by law to:

- review your payment history for the lookback period
- notify you by November 1 each year if your schedule has changed for the next calendar year
- supply you with proper forms

Important guidelines for paying withholding:

It is important that you use the preprinted payment vouchers. These vouchers have optical characters which we scan electronically to ensure that your payments are properly credited to your account.

Each form is personalized to a specific employer. Please do not photocopy another employer's payment voucher for your own use, as your payment could be applied incorrectly. Our equipment reads the scan line across the bottom of the voucher and directs the payment accordingly. If you use someone else's payment voucher, their information in the scan line could prevent your payment from being credited to the proper account, regardless of what you might write elsewhere on the voucher.

Please note: Even if you paid no wages during the period, you are still required to submit a payment voucher showing "zero" withholding. This will fulfill your filing requirement and prevent us from sending you a "delinquent" letter.

Filing Form MW-3:

Form MW-3 is your annual payment reconciliation and annual W-2 transmittal summary. We use the information requested on this form for our annual reconciliation process. The filing deadline for Form MW-3 is February 28th. Review an online summary of your withholding payments at <https://tap.dor.mt.gov>.

You can file the Form MW-3 online through the Taxpayer Access Point (TAP) at <https://tap.dor.mt.gov> or you

can file on paper. Detailed instructions accompany the forms.

If you discover an error on the MW-3 after year end, you are required to remit any tax due with an explanation of the error, along with your corrected W-2s.

Wage and earning statement (Form W-2):

Each employer needs to provide the state and each employee, a wage and earnings statement. This statement is commonly called a W-2. The W-2 is a federal form and the instructions for completing it are in the W-2 instruction booklet. Federal publications

15 and 15A also provide additional information, and can be located at <http://www.irs.gov>. The state portion of the W-2 is usually located in the lower portion of your W-2. The filing deadline for submitting all W-2s to the Montana Department of Revenue is February 28.

Whenever wages are paid, you must prepare a W-2 for each of your employees regardless of whether any tax was withheld. For Montana employees, a six-part form must be used. The box numbers on the W-2 form may change from year to year.

If you are an agricultural or domestic employer and have not withheld from your employees, you will need to complete W-2s and provide them to your employees. You need to submit the W-2 forms to the Montana Department of Revenue even if you are not registered. An annual reconciliation form, the MW-3 must be submitted to support the withholding reported on the W-

2s. The MW-3 form can be found at <http://revenue.mt.gov> and can be submitted online using [Montana Taxpayer Access Point](#) or you may call us toll free at (866) 859-2254 (in Helena, 444-6900) for assistance.

Submitting W-2s electronically:

W-2s may be submitted electronically. Instructions on how to submit W-2s electronically can be found at: http://revenue.mt.gov/home/businesses/wage_withholding

Requirements after ceasing payroll:

Within 30 days of ceasing to be an employer or paying payroll you are required to send the following documents:

- Your payment voucher with remittance for the final payroll period in which wages were paid.
- The MW-3 with the W-2 forms, reporting your employees' wages and taxes withheld during the year, to the date of termination of wage payments; and
- If you are an annual filer, you will need to file your final MW-3 with the W-2 form, reporting your employees' wages and taxes withheld during the year to the date of termination of business.

Requirements for 1099 filing with the Montana Department of Revenue:

If you are required to file a Form 1099 of any type or any other informational return with the Internal Revenue Service, you are required to send a copy to the Montana Department of Revenue. Submitting forms to the combined Federal/State Filing Program does not satisfy the requirement that forms be submitted directly to the Montana Department of Revenue. The filing deadline for submitting all Form(s) 1099 to the Montana Department of Revenue is February 28th. Form 1099 with or without state withholding may be submitted electronically or on paper. Please see our website at http://revenue.mt.gov/home/businesses/wage_withholding for details.

Requirement to maintain records:

To be prepared for an audit, you must keep a record of:

- begin and end date of each pay period
- total wages paid during each pay period

- method of payment
- your employees' names, social security numbers and wages for each pay period.

For a complete explanation of the records you must keep, please refer to Section 42.17.203 of the Administrative Rules of Montana. If you would like a copy of these rules visit <http://sos.mt.gov/ARM>

Your records must be available for inspection by the Montana Department of Revenue or our authorized representative. A field representative may audit your records. The purpose of an audit is to see that your returns are being filed correctly and that you are complying with the law. The field representatives are available to answer your questions and help you understand the state income tax withholding program.

If you need to correct or amend a report that you have already mailed, please send a revised copy with your explanation of the change(s), and the name of a contact person to:

Montana Department of Revenue
PO Box 5835
Helena, MT 59604-5835.

Electronic Filing and ACH Payment

Taxpayer Access Point is a full service application providing business and tax preparers the ability to manage tax accounts, make payments, and file in a secure environment. Creating a TAP account is fast, easy and free. You can register today by visiting <https://tap.dor.mt.gov/#2> within minutes you will receive an authorization code and begin enjoying the services TAP offers.

E-PASS Montana is a convenient and secure way to use your state government services. E-PASS offers a single point login for only services from various state agencies. Creation of an e-pass account is required to access services. With E-PASS you can use Department of Revenue services Business Tax Express (BTE) and File Transfer Service (FTS)

Business Tax Express (BTE) allows businesses to establish an account and password. Once your account is established, you simply log in each time you wish to make a payment, enter the necessary data and print a receipt. Your payment will automatically be withdrawn from your business' bank account. The online service also allows you to transmit payments and a filing on behalf of multiple businesses, "warehouse" your payment for a later date, and provides you with two years of payment history. This service makes it faster, easier and more convenient for you to pay your withholding.

File Transfer Service (FTS) allows business and tax preparers a convenient way to electronically submit W-2 and 1099 information. File Transfer Service requires the user to utilize E-PASS.

Penalties

It is important that you file and pay timely. If you do not, your account can be assessed the following penalties and or interest

- If you do not pay your tax when due, as established by your filing frequency, the late payment penalty is 1.5% per month on the unpaid tax, not to exceed 15% of the tax due.
- The interest on tax not paid by the due date, as established by your filing frequency, is assessed at the rate of 12% per year, and accrued at 1% per month on the unpaid tax.

If you do not furnish wage and tax statements (W-2s) by February 28, there is a \$50 minimum penalty or \$5 per W-2 penalty, whichever is greater.

You are responsible to deduct and withhold as required under 15-30-2502, MCA. If you do not do so, you can be charged penalty and interest even if the actual tax liability has been paid by your employee. If you do

not pay amounts withheld within the time provided, and use this money to further your business pursuits, it is deemed to be an illegal conversion of trust monies. The owners of the business become personally liable for the tax due, even if the business is a corporation. The taxes are not dischargeable in the case of a bankruptcy, either by the business or individual that is liable for the tax. If it is established that you knowingly or purposely intended to evade tax or any lawful requirements of the Montana Department of Revenue, additional penalties, not less than \$1,000 and not more than \$10,000 may be assessed [MCA 15-1-216 (3)].

If you believe you have reasonable cause for being late, you may request a waiver of penalties. We will then notify you whether we will grant the waiver or not. As a general rule, not having the necessary forms to send with your payment is not an acceptable reason to request a waiver.

Power Of Attorney

Requirements to file a Power of Attorney with the Montana Department of Revenue:

Written authorization is required any time an individual, other than the taxpayer, requests confidential taxpayer information. For your convenience, a power of attorney form (Form POA) is available on our website at <http://revenue.mt.gov/home/forms.aspx>

Montana Employment Tax Chart

Classes of Employment

1	A dependent of the sole proprietor for whom the sole proprietor may claim an exemption under the Internal Revenue Code	Subject
2	Spouse/dependent child – of sole proprietor	Subject
3	Members of a partnership or member managed LLC	Not Subject
4	Corporate officers	Subject
5	Agricultural labor	Not Subject
6	Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority	Not Subject
7	Service performed by a duly ordained, commissioned, or licensed minister of a church in a ministerial duty or by a member of a religious order in the exercise of duties required by the order	Not Subject
8	Other church employees	Subject
9	Services of an individual under the age of 18 delivering or distributing newspapers to a point for subsequent delivery or distributions	Not Subject
10	The sale of newspapers or magazines to ultimate consumers where the newspapers or magazines are sold wholesale to the seller at a fixed price and seller keeps the excess	Not Subject
11	Freelance correspondents, provided the person is compensated solely by the story/picture	Not Subject
12	Real estate brokers	Not Subject
13	Securities and Insurance salespeople	Subject
14	Direct sellers engaged in the sale of consumer products, primarily in the customer's home	Not Subject
15	Cosmetologists and barbers who are independent contractors	Not Subject
16	Services as an elected public official	Subject
17	Services performed at a school, college or university by a currently enrolled student or the spouse of such a student	Subject
18	Employment with any railroad engaged in interstate commerce	Subject – Only if Montana residents

Montana Employment Tax Chart

19	Service performed by an individual who is enrolled at a nonprofit or public educational institution which uses academic instruction combined with actual work experience	Subject
20	Deceased worker – The deceased worker's final check is not subject to withholding, but is subject to individual income tax. Normally, the last check is made out to the decedent rather than to the estate and the wages are included on the W-2. On occasion, the final check is issued to the estate and entered on a 1099.	Not Subject
21	Companionship services – An employee in domestic service employment to provide companionship services, as defined in 29 CFR 552.6, or respite care for individuals who, because of age or infirmity, are unable to care for themselves as provided under section 213(a)(15) of the Fair Labor Standards Act. 29 U.S.C. 213, when the person providing the service is employed directly by a family member or an individual who is a legal guardian.	Subject
22	Officials at school amateur athletic events	Subject
23	MOA officials who are assigned to the event are not employees; however other officials are employees of the school	Not Subject
24	Services performed in the employ of a hospital if such service is performed by a patient of the hospital	Not Subject
25	Services performed in Montana in the employ of any other state or the United States government	Subject
26	Services by a citizen or resident of the United States for a foreign government or an international organization	Not Subject
27	Active duty as a member of the regular armed forces of the United States, as defined in 10 U.S.C. 101 (33)	Not Subject
28	National Guard training as provided in 5 U.S.C. 5517(d)	Subject
29	Person performing services in return for aid or sustenance only	Subject
30	Employer payment for, or a contribution toward the cost of any employee benefit group plan or program including but not limited to life or hospitalization insurance for the employee or dependents	Not Subject
Type of Payments		
31	Payments in any medium other than cash	Subject
32	Payments in the form of lodging or meals, and the services are performed by the employee at the request of and for the convenience of the employer	Not Subject

Montana Employment Tax Chart

33	Tips for services rendered at a place licensed to provide food, beverage or lodging in accordance with section 3402(k) of the Internal Revenue Code of 1954	Not Subject
34	All other tips	Subject
35	Allocated tips	Not Subject
36	Dependent care assistance provided by an employer to, or on behalf of, an employee for which a credit is allowed under 15-30-2373 or 15-31-131, MCA	Not Subject

MONTANA DEPARTMENT OF REVENUE CONTACT INFORMATION

If you have questions, need help completing forms, or need more information, please contact the Montana Department of Revenue. We are happy to serve you!

Online access: <http://revenue.mt.gov>

Phone: Toll Free (866) 859-2254
In Helena 444-6900

Mail: Montana Department of Revenue
PO Box 5835
Helena, MT 59604-5835